

**INFORMATION SHEET**  
**DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS**  
**RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK**  
**COUNTY V. U.S. ARMY CORPS OF ENGINEERS**

**DISTRICT OFFICE:** St Paul District  
**FILE NUMBER:** 05-811-DJP

**REGULATORY PROJECT MANAGER:** Dale J. Pfeifle **Date:** February 15, 2005

**PROJECT REVIEW/DETERMINATION COMPLETED:** In the office Y (Y/N) **Date:** February 15, 2005  
 At the project site    (Y/N) **Date:**                     

**PROJECT LOCATION INFORMATION:**

**State:** Wisconsin  
**County:** Waukesha  
**Center coordinates of site by latitude & longitudinal coordinates:** 42.83813306473N, 88.18605677589W  
**Approximate size of site/property (including uplands & in acres):** 72  
**Name of waterway or watershed:** Upper Fox, Illinois, Wisconsin

**SITE CONDITIONS:**

Type of aquatic resource <sup>1</sup>	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands	X								
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

<sup>1</sup>Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors <sup>1</sup> :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

<sup>1</sup>Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

**TYPE OF DETERMINATION:** Preliminary    Or **Approved** X.

**ADDITIONAL INFORMATION SUPPORTING NJD (e.g., discussion may include information reviewed to assess potential navigation or interstate commerce connections - 1 to 3 paragraphs):** An application was received to complete a 0.9-acre wetland scrape. The scrape would result in the creation of open water with a maximum expected depth of 4-feet. A 10-foot buffer of natural vegetation would be retained around the perimeter of the scrape. The excess dredged materials would be disposed of on upland areas within the property boundaries. The applicant indicated that the project area is currently surrounded by cropped fields.

A review of the information provided by the applicant, 1985, 1990, and 2000 SEWRPC air photos, the USGS Waterford, WI quadrangle, and the Racine County soil survey indicate that the proposed wetland scrape would be confined to an isolated depressional area within a cropped field. The map and air photo resources do not show the presence of a surface water connection between the subject wetland and a water of the US. The subject wetland would not be adjacent to a water of the U.S. No connection between the subject wetland and interstate commerce could be established. Therefore, the subject wetland is an isolated water.

The applicant indicated that the purpose of the project is to create waterfowl habitat. No other development is proposed.